

28588
SEC

SERVICE DATE - NOVEMBER 13, 1997

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42012

SIERRA PACIFIC POWER COMPANY AND IDAHO POWER COMPANY

v.

UNION PACIFIC RAILROAD COMPANY

Decided: November 12, 1997

In a complaint filed, and served on defendant, Union Pacific Railroad Company (UP), on August 1, 1997, Sierra Pacific Power Company and Idaho Power Company (complainants) allege that rates assessed by UP to move complainants' unit trains of coal from Sharp, UT, to complainants' North Valmy Station, an electric generating plant in north central Nevada, exceed a maximum reasonable level and that UP possesses market dominance over the traffic. Complainants request that maximum reasonable rates be prescribed, along with related rules and service terms for the movement.¹

On November 10, 1997, complainants and defendant filed a joint motion to defer the date for submission of opening evidence until at least 30 days after the resolution of several motions currently pending before the Board and any further motions which may be filed by the parties.²

In support of their motion to defer the procedural schedule, the parties point out that several discovery-related motions filed by both parties are pending, and the Board has indefinitely suspended the original discovery deadline of October 15, 1997.³ The parties state that, consequently, they have been unable to complete the discovery phase of this proceeding, which has hindered their ability adequately to prepare their opening evidence, which is currently due on December 1, 1997. In addition, the parties point out that UP filed a motion to dismiss the complaint on November 4, 1997. Complainants state that they will reply to the motion to dismiss on or before November 24, 1997.

The parties have demonstrated that a delay in the procedural schedule is warranted.

¹ On August 15, 1997, the parties filed a joint motion for the approval of a stipulated protective order. By decision served August 25, 1997, the motion was granted and a protective order was entered.

² Apparently UP intends to file a motion to compel discovery in regard to its third set of discovery requests to complainants.

³ See the decision served in this proceeding on October 10, 1997.

Accordingly, the procedural schedule for the submission of evidence in this proceeding is suspended until further notice.

It is ordered:

1. The procedural schedule for the submission of evidence is suspended until further notice.
2. This decision is effective on its date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary

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